



# Pacific Maritime Association

Accident Prevention Department

550 California Street, P. O. Box 7861  
San Francisco, California 94120-7861

## SAFETY BULLETIN # 02-04

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### Sensitive Security Information - SSI

#### Overview:

TSA and DHS published regulations for protecting SSI on May 18, 2004. The regulations proscribe the types of information to be protected and the “covered persons” having the “need to know” that are allowed to have access. Finally, the regulations provide the obligations for protecting the information, and reporting unauthorized disclosure.

The classification of sensitive security information grew out of the need to share security information at airports while still providing a way to ensure its protection from disclosure. The new regulations take this concept and broaden it across all transportation modes.

SSI is defined as information which is developed or obtained in the conduct of security activities, the disclosure of which would; 1. Constitute an unwarranted invasion of privacy, 2 reveal trade secrets, or 3 be detrimental to transportation safety. The following information and records constitute SSI:

1. Security programs and contingency plans	8. Security Measures
2. Security directives	9. Security screening information
3. Information circulars	10. Security Training Materials
4. Performance specifications	11. Identifying information of certain transportation security personnel
5. Vulnerability assessments	12. Critical Aviation of maritime infrastructure asset information
6. Security inspection or investigative information	13. Confidential business information
7. Threat information	14. Research and Development Information

**Covered Persons:** Certain “covered persons” are allowed access to SSI and incur obligations as a result of this access. Covered Persons include:

- Owners, operators, charterers of vessels required to have a security plans.
- Each owner or operator of a maritime facility required to have a maritime security plan.
- Each person participating in a national or area security committee or a port security committee.
- Each industry trade association that represents covered persons and has entered into a non-disclosure agreement with DOT or DHS.
- Each person who has access to SSI as specified in regulation due to their “need to Know”

Covered persons must safeguard SSI via proper markings and storage. Improper marking must be recorded and reported to the sender so that it may be properly marked. Disclosure of SSI is restricted to covered persons with a need to know. Requests for SSI by other persons must be reported to the applicable component within DOT or DHS. If a covered person becomes aware of the improper disclosure of SSI to unauthorized persons, the covered person must promptly inform the applicable component within DOT or DHS.

**Need to Know:** SSI is only disclosed to a covered person with a need to know. A need to know exists when:

- a person requires access to SSI to carry out maritime transportation security activities approved or directed by DHS or DOT,
- a person is in training for these duties,
- a person must supervise or manage persons carrying out security duties, or
- a person must provide legal or technical advice regarding maritime security.

DOT or DHS may require background checks and the imposition of other procedures to safeguard SSI. DOT and DHS may further limit the need to know for some specific SSI to specific persons or classes of persons.

**Protection of SSI:**

SSI must be marked with protective markings. Paper records must be marked with the Protective Marking (Sensitive Security Information) at the top and a Distribution Limitation Statement at the bottom of the front and back cover and on each page of a paper document. Non paper records including video and computer records must be clearly and conspicuously marked with protective markings and the distribution limitation statements such that the viewer or listener is reasonably likely to see or hear them when obtaining access to the contents of the record.

The distribution limitation statement includes the words:

***“Warning: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a need to know as defined in 49 CFR parts 15 and 1520 except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.”***

**Non Disclosure Agreement:**

Although not specifically required by regulation, covered persons (owners and operators) of a maritime facility may consider the use of a Non Disclosure Agreement outlining the conditional access to SSI by covered employees having a need to know.

**Summary:**

The regulations require covered persons to protect information and only disclose or otherwise provide access to other covered persons or persons who have a need to know.

- As a covered person, you must take reasonable steps to safeguard SSI from unauthorized disclosure. SSI must be kept in a secure container such as a locked desk or file cabinet.
- As a covered person, you must destroy SSI completely to preclude recognition or reconstruction of the information when the covered person no longer needs the SSI to carry out transportation security measures.
- Prior to any SSI release, a covered person must assess whether the person to receive the information also meets the definition of a covered person. Separately and independently a covered person releasing SSI must also determine that the receiving covered person has the need to know.